

## IN THE SUPREME COURT OF CALIFORNIA

|                              |   |                       |
|------------------------------|---|-----------------------|
| RONALD G. LUND,              | ) |                       |
|                              | ) |                       |
| Plaintiff and Respondent,    | ) |                       |
|                              | ) | S099479               |
| v.                           | ) |                       |
|                              | ) | Ct.App. 5 F034334     |
| SAN JOAQUIN VALLEY RAILROAD, | ) |                       |
|                              | ) | Kern County           |
| Defendant and Appellant.     | ) | Super. Ct. No. 235336 |
| _____                        | ) |                       |

**THE COURT.**—The opinion herein, appearing at 31 Cal.4th 1, is modified as follows:

The third complete paragraph on page 13, beginning, “At oral argument in this court,” is deleted.

This modification does not affect the judgment.